

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

DASHAWN SUMRALL

PLAINTIFF

VS.

CIVIL ACTION NO. 1:14-cv-221-LG-JCG

FREDERICK CORSO, In His Individual and Official Capacities;  
JOSEPH TUTEN, In His Individual and Official Capacities;  
SHERIFF MELVIN BRISOLARA, In His Individual and Official Capacities;  
HARRISON COUNTY, MISSISSIPPI, SHERIFF'S DEPARTMENT;  
HARRISON COUNTY, MISSISSIPPI; and  
JOHN DOES 1 - 5

DEFENDANTS

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MOTION TO DISMISS BY FREDERICK CORSO,  
IN HIS OFFICIAL CAPACITY AS AN EMPLOYEE AND/OR  
AGENT OF HARRISON COUNTY, MISSISSIPPI

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COMES NOW, Defendant, Frederick Corso, in his official capacity as an employee and/or agent of Harrison County, Mississippi, by and through undersigned counsel, specially appearing herein and reserving all additional defenses and immunity available under Federal and State law and Federal and State Rules of Civil Procedure including all available Rule 12 defenses, and moves this Court for an order dismissing Frederick Corso in his official capacity with prejudice, pursuant to Rule 12(b)(6) of the *Federal Rules of Civil Procedure*, and in support would show unto the Court the following:

1. On May 22, 2014, the Complaint was filed in the instant cause by Plaintiff, Dashawn Sumrall, naming, *inter alia*, Frederick Corso as a Defendant in both his individual and official capacities.

2. It is well established that a claim brought against a government employee in his official capacity is actually a claim against the governmental entity itself. *See Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985). The governmental entity involved in this matter is Harrison County, Mississippi, and it has been made a Defendant in this lawsuit. Therefore, the claims against Frederick Corso in his official capacity as an employee and/or agent of Harrison County, Mississippi are nothing more than claims against Harrison County, Mississippi itself, and thus, are redundant and should be dismissed.

3. By filing this Motion, Frederick Corso specifically reserves the right to file his Answer, Defenses and Affirmative Defenses, and any potential counterclaim against Plaintiff, and further, to make additional challenges under Rule 12(b)(6) of the *Federal Rules of Civil Procedure* and does not hereby waive this right to make such challenges.

**WHEREFORE, PREMISES CONSIDERED**, Movant prays for an Order from this Court dismissing Frederick Corso in his official capacity as an employee and/or agent of Harrison County, Mississippi with prejudice in that Harrison County, Mississippi is already a named Defendant in the instant cause, thereby making Plaintiff's claims against Frederick Corso in his official capacity redundant, and thus, ripe for dismissal for failure to state a claim upon which relief can be granted.

Respectfully submitted, this the 24<sup>th</sup> day of October, 2014.

**FREDERICK CORSO, In His Official  
Capacity, DEFENDANT**

**SMITH & HOLDER, PLLC**

BY:           /s/ Christopher Smith            
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**CERTIFICATE OF SERVICE**

I, Christopher Smith, of the law firm Smith & Holder, PLLC, do hereby certify that I electronically filed the foregoing Motion to Dismiss with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record registered with the ECF system.

DATED, this the 24<sup>th</sup> day of October, 2014.

/s/ Christopher Smith  
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